

Commercial Zoning Update Working Group



Meeting Notes Wednesday, August 3, 2022 6:00 p.m.

1. Call to order

The meeting was called to order at 6:01 pm.

2. Roll call

Present: Barbara Kiely Miller, Scott Kraehnke, Tr. Kathy Stokebrand, Jake Bresette, Chuck Hagner, Matt Weiss, Kate Flynn Post, and Bart Griepentrog

Excused: Josh Pollack, Lybra Loest, Jon Krouse, Tr. Arthur Ircink, Maggie Pipek, and Gary Brunk

3. Discussion of Module 1 (535-21 Commercial & Mixed-Use Districts, 535-25 Principal Uses, 535-26 Accessory Uses & Structures, 535-27 Temporary Uses and 535-28 Conditional Use Permits)

It was noted that the project consultants were intentionally not present so that Working Group members could express their opinions more informally amongst themselves. Mr. Griepentrog led the conversation and noted that it was hoped that comments from Module 1 could be finalized at tonight's meeting or by the end of the week, in preparation for discussion of Module 2 at the next meeting (August 18, 2022).

Mr. Griepentrog opened discussion of Article V. Uses and noted that he would be going page by page to receive comments. Ms. Kiely Miller confirmed that the numbering of the draft code would be carried into the newly adopted code. Mr. Griepentrog noted that the formatting may not transfer to the online eCode, but that a professionally formatted pdf would hopefully be available in addition to the online code. Mr. Kraehnke stated that it would be a shame to lose the nice formatting and hoped that the Village could find a way to keep this version available, even with future edits.

Mr. Hagner pointed out that in 535-25A(2)(c) ground floor should not be hyphenated, and the final sentence should read contain, not contained. He noted that he had a number of other copy-editing comments throughout the chapter that he would be willing to submit separately without having to discuss all of them.

Mr. Griepentrog noted that the proposed language pertaining to prohibited uses in 535-25A(2)(f) was much clearer than the current code, which sent "unclassified"

uses to the Plan Commission for review. He stated this would be more predictable and easier to administer. Ms. Kiely Miller agreed and stated that in general the writing style throughout was very clear.

Within the proposed draft Principal Use Table on page 5-3, Mr. Griepentrog noted that the permitted icon for Child Care Center should have been located in the P-1 zone, not the R-9/R-10 zone. He also noted that the Consumer Service category was still open for discussion of allowing them as permitted uses, rather than limited uses, within the GX zones. Ms. Kiely Miller asked what the thinking was behind allowing only 25% of the building footprint to be occupied by these uses. Mr. Griepentrog stated that he believed it was intended to steer those uses to more applicable zones and building types, but still allow some flexibility for their presence in other locations within the Village.

Mr. Griepentrog shared his review document pertaining to existing occupancies and how the new code would classify and permit them. He pointed out proposed non-conformities and noted that the consultant was provided the same document for reference. He reiterated that the new code would only impact future businesses and that existing businesses would be allowed to remain.

Tr. Stokebrand questioned how daycare centers would be treated moving forward. Mr. Griepentrog pointed out that they would be allowed in CX and GX zones, and within the upper story or rear ground floor of MX zones, but that the frontage of MX zones was intentionally reserved for more active uses. Tr. Stokebrand questioned if the Village could attract enough uses to those spaces to justify limiting other uses from occupying them. He noted that this conversation was discussed at the third public workshop, where comments pertaining to increasing the amount of storefront uses was balanced with a realistic view of how many qualifying business types could be expected. It was noted that increasing the amount of storefront uses beyond the identified nodes was not recommended, but that finding ways to properly activate those zones/nodes through limiting uses was the strategy. Ms. Flynn Post shared some concern over this strategy and questioned how an economic development strategy could help. Mr. Kraehnke noted that daycare centers only serve their customers, but not members of the general public. Mr. Griepentrog also pointed out that they are closed on nights and weekends. These were noted to be reasons why their use should be focused to areas of the corridor where less vibrancy was acceptable. Ms. Kiely Miller agreed. Mr. Bresette expressed concern over whether the village had enough market demand to fill these spaces with other uses.

Mr. Griepentrog noted that event venues may be updated to a permitted use within the P-3 district in a future draft. This was being considered because Hubbard Park and Estabrook Park have existing event venues that seems to function well. Ms. Kiely Miller questioned if they should be a conditional use. It was noted that the Village and County can still control these uses and their operations outside of zoning through the issuance of contracts to selected vendors.

Ms. Kiely Miller questioned the proposed classification of Parking Lots in the use table. Mr. Griepentrog noted that they should be prohibited in the R-9/R-10 district and shown as conditional within the P-1 district. He also noted that municipal lots would be exempted. He also questioned whether the Working Group wanted parking lots as a principal use within the proposed MX district.

Ms. Kiely Miller pointed out that the code reference for Other uses (535-25F) should be included within the table.

Mr. Griepentrog noted that Office uses would not be allowed within the ground story of the MX district. This type of use included various medical offices, such as doctors, acupuncturists, chiropractors and dentists, who currently occupy some storefront spaces in the village. Tr. Stokebrand reiterated her concern that other uses were interested in occupying these spaces. She did not question the goal but wondered if it was realistic. Ms. Kiely Miller understood the desire to limit these uses and referenced a recent conditional use permit approval for an orthodontist who had very limited operations. Mr. Kraehnke agreed with the intention of the regulation and suggested that filling the space was a separate issue that could be addressed with other strategies. Ms. Kiely Miller stated that other commercial corridors in the region, including Whitefish Bay and Cedarburg, had more active uses, and she believed we could get similar uses. Mr. Kraehnke also pointed out that the Village could always rezone these parcels in the future or update the regulations if things did not work out. Ms. Kiely Miller noted that for its size, Shorewood had a lot of these uses and thought it was acceptable to say that it wants more variety.

Mr. Griepentrog noted that banks would not be allowed in the ground story of the MX district. He pointed out that several banks currently exist but would not be allowed moving forward. He also noted their drive-thru operations would not be allowed. Ms. Flynn Post questioned what would happen to these buildings if the banks were to leave. Mr. Griepentrog noted that new, conforming tenants could occupy those spaces. He also pointed out that non-conforming uses could still reoccupy that space up to one year after the previous tenant has vacated. Mr. Bresette noted that businesses in the village are currently very service-based and questioned what other types of commercial tenants can be attracted. He stated that many people work elsewhere and frequent other commercial centers where those uses currently thrive. Ms. Flynn Post questioned if there was any sort of analysis that either the Business Improvement District or Comprehensive Plan had for reference in correlating the proposed zoning to economic development efforts.

Mr. Griepentrog noted that the pharmacy on E. Capitol Dr. would not be permitted in the new code, but rather than changing the district regulations, the consultant is considering changing the proposed zoning of that area. Similar consideration was being suggested for the existing mixed-use storefront building at 4451 N. Oakland Ave.

Mr. Griepentrog pointed out that gas stations would not be allowed within the MX and GX districts, which would impact the future reuse of two current gas stations, but not impact the three on the west end of E. Capitol Dr.

Mr. Griepentrog noted that he would send out his occupancy review table to the Working Group for their continued reference. Mr. Kraehnke suggested that additional data be compiled from this table for future discussion, including the percentage of uses that would become non-conforming.

Ms. Kiely Miller questioned where a memory care facility would be classified within the Residential Use Group. It was believed that it would be a Residential Care Facility but would need to be confirmed with the corresponding State Statutes referenced.

Mr. Griepentrog noted that the footnote at the bottom of 5-4 related to a recommendation to eliminate the use of “family” within the zoning code and replace it with “household” in order to be more inclusive. The “family” term is located in various places outside of the commercial districts and would need to be updated in those locations as well. Ms. Kiely Miller pointed out a desire to not allow portions of the village to turn into overcrowded college housing. Mr. Griepentrog pointed out that the intention of modifying the reference would be to eliminate the requirement for members of a household to be related by blood or marriage.

Mr. Griepentrog noted that the description of Personal Improvement Services would be updated to include pet grooming. Tr. Stokebrand suggested that it be made a separate category because pet grooming did not relate to a “personal” service. Mr. Griepentrog stated that the goal was to have a broader category contain similar type uses and suggested that finding a name other than “Personal” Improvement Service could be possible. Mr. Kraehnke suggested simply removing the word “personal” would work. Mr. Hagner agreed. Other options, such as “physical” improvement services were also discussed.

Tr. Stokebrand questioned where massage services were located. Mr. Griepentrog noted that he requested greater differentiation between massage and physical therapy services. It was believed that massage would fall under the day-spa description under Personal Improvement Service, whereas physical therapy would be included within a Medical Office or Clinic.

Mr. Griepentrog noted that he has requested for a definition to be developed for Eating & Drinking Places that does not require referencing State Statutes. Mr. Kraehnke agreed that summarizing the statute and confirming any additional uses is doable.

Ms. Kiely Miller asked if short-term rentals were included within the proposed definition of Lodging. Mr. Griepentrog confirmed that they were and that the proposed principal use table is not changing where they are allowed.

Mr. Griepentrog noted that he has asked the consultant to include upholstery shops and bakeries within the Manufacturing & Production, Artisan category.

Ms. Kiely Miller noted that the proposed conditions listed within the Retail Sales, Donated Goods category were nice and clear. Tr. Stokebrand questioned the feasibility of locating refuse containers inside the building, both here and in other sections of the proposed code. Mr. Kraehnke understood this regulation as a use-specific requirement but questioned it as a general rule elsewhere. Mr. Griepentrog noted that if it were believed to be too onerous it could be removed, or an exception could be offered. Ms. Kiely Miller noted that both newly proposed developments were going to keep their refuse inside. Mr. Kraehnke understood but questioned how a restaurant or similar use would be able to do so.

Ms. Kiely Miller questioned the limitations listed within the Personal Vehicle Repair and Maintenance, Minor. She wondered if these services were currently offered in Shorewood and whether they were known to be problematic.

Ms. Kiely Miller suggested that cemeteries should be removed from the Parks & Open Space District. Mr. Griepentrog said he would pass along that suggestion and wondered if that was left in the draft from a different community, since Shorewood does not currently have any cemeteries to reference.

Tr. Stokebrand questioned the inclusion of Hospital and whether urgent care facilities were the same. Mr. Griepentrog noted that hospitals were proposed as permitted within the GX and P-1 zones. Mr. Kraehnke mentioned that the State Statute would need to be referenced to confirm what this entails. Ms. Kiely Miller noted a trend of opening smaller hospitals. Mr. Griepentrog noted that he would have the consultant confirm what this was intended to include.

Mr. Hagner requested to review the intention of “facilities that do not have on-site employees or amplified sound are not classified as financial service uses if they meet the criteria for classification as an accessory use” within the Financial Service category under Office on page 5-5. Mr. Griepentrog believed that was intended to cover “virtual” teller machines where an employee speaks to the customer from off-site. He noted that he would ask the consultants to confirm the proposed language and classification of principal or accessory use. Ms. Kiely Miller also questioned whether limitations of the hours of operation should be considered. Tr. Stokebrand noted that limitations should be considered in recognition of their impact on the neighborhood.

Tr. Stokebrand noted that the Metro Market has a kiosk that allows customers to sell back their phones and get money. She questioned how that type of use would be handled in the code update. Mr. Griepentrog noted that he would ask the consultants to confirm what types of kiosks are intended to be included as eligible accessory structures.

Ms. Kiely Miller questioned the inclusion of “fire, police or life protection” within the Utilities & Services, Minor category and their allowance as permitted uses in every district. Mr. Griepentrog noted that he believed the consultants were going to remove those services and create a Public Safety category for review within the next draft. Ms. Kiely Miller suggested that they only be allowed in the P-1 district.

Ms. Kiely Miller questioned if “Consider” should be replaced with “Require” within the description of the Use-Specific Conditions defined within 535-25F(1)(b)[5].

Ms. Kiely Miller questioned the list of Home Occupations, and Mr. Griepentrog noted those occupations were shown in green because they were simply being relocated into this section of the code for clarity but were not intended to be part of the discussion. He stated that they would be reviewed as a future initiative of the Plan Commission.

Mr. Griepentrog questioned the requirement to locate accessory structures in the rear yard only (535-26A(2)(b)) with respect to solar energy systems, which are traditionally located on structures and not within yards, and outdoor dining, which is often in front or side yards. Tr. Stokebrand questioned if the Village wanted to allow solar panels within any yard and suggested that they only be allowed on primary or accessory structures. Mr. Kraehnke stated that he would not want to limit solar panels in someone’s rear yard. Ms. Kiely Miller suggested as long as the neighbor had a fence to screen their back yard that she didn’t care what was located within it. Mr. Hagner said the Conservation Committee would encourage people to install solar energy systems where they can. To that point, Mr. Griepentrog noted that the proposed code would make Solar Energy Systems permitted uses, whereas the current code defines them as conditional uses. He noted that the Village Attorney would be asked to weigh-in on the change with respect to development rights and access to sunlight prior to adoption.

Mr. Griepentrog noted that the references to 435-21 in the Accessory Use & Structure Table would be updated to 535-21.

Ms. Kiely Miller questioned whether gas stations would realistically locate their fuel pumps in the rear or side yard. She noted that as a woman who may need to fill up her gas tank after dark, she would rather remain visible to the street than hidden behind a building. Mr. Griepentrog noted the proposed design was more pedestrian friendly to someone walking along the sidewalk but noted the safety concern. He stated that the diagram provided appeared to have a lot of land to work with, whereas some gas stations in Shorewood are tighter. Mr. Kraehnke agreed that the diagram appeared more suburban and suggested that the constraints of one of our existing gas station sites be used as a starting point. Tr. Stokebrand noted that she has seen gas stations designed like this near the airport. Ms. Kiely Miller pointed out that the corresponding footnote states that locating “drive-throughs” in the side yard may be better in the CX district to place them further away from residences. (This may have intended to reference “fuel pumps” rather than “drive throughs.”) Ms. Kiely

Miller also questioned whether vehicular exits should be directed to non-primary streets. Mr. Griepentrog noted that site access would be defined within the building type section.

Mr. Griepentrog noted that drive-throughs are proposed to be located at least 35 feet from an abutting R district lot line and suggested that distance may be too far for the depth of Shorewood's lots. Mr. Kraehnke and Mr. Bresette agreed. It was also noted that allowing drive-throughs in an interior side yard, as suggested in the footnote, was acceptable.

Ms. Kiely Miller stated that the hours of home occupations should not be limited as currently defined. Mr. Griepentrog reiterated that home occupations would be reviewed by the Plan Commission as a future initiative.

Ms. Kiely Miller questioned if the Plan Commission would no longer be asked to approve temporary uses, such as the holiday tree lot. Mr. Griepentrog affirmed and noted as proposed that such approval would be granted by the Planning & Development Department, subject to the conditions listed. It was also noted that the Planning & Development Department may refer consideration to the Plan Commission, if desired.

Mr. Hagner requested that "or birds in the local environment" be added to the required findings listed within 535-28C(3)(e)[1]. Mr. Griepentrog questioned if the regulation was intended to relate to the use or the associated building/structure. He noted that bird-friendly building design regulations were expected to be drafted within Module 2. Mr. Hagner also suggested that "including birds in the local environment" be added to a condition of termination, as listed in 535-28C(3)(k)[2]. Mr. Griepentrog stated that this revocation clause could be relevant to wind energy systems, which are defined as a conditional use.

Ms. Kiely Miller requested that the long sentence within the Notice requirements of the Procedures section 535-28C(3)[b] be broken up into two sentences ending at hearing and starting with Compliance.

Mr. Griepentrog stated that he would be willing to start discussion of the Commercial & Mixed-Use Districts defined in 535-21 but understanding the length of that chapter suggested that time may need to be reserved at a future meeting to get through it.

Ms. Kiely Miller stated that she would like to propose additional categories within the MX and GX districts with height limits up to three stories for inclusion within the draft. Mr. Griepentrog informed Ms. Kiely Miller that she should prepare that proposal for future consideration, including the identification of where those districts would be located, so that the Working Group could confirm if they agreed. He noted that the third public workshop was intended to get feedback on the proposed districts and their location and that the draft was based on cumulative public feedback. Tr. Stokebrand stated that the third public workshop contained a lot of information and

found it difficult to get feedback on specific issues. Mr. Kraehnke suggested that public feedback at that workshop also asked for additional storefront uses, which needed to be balanced with more realistic expectations.

Ms. Flynn Post questioned whether professional guidance would also be offered on these matters. She understood what the community requested but wanted to know if there were professional standards that should also be considered. She suggested there could be opportunities for education to the community from either the consultant or staff. Mr. Griepentrog noted that the Village hired an expert in form-based coding to guide this process and would rely on their expertise to balance expectations with reality. He noted that he has been working with the consultants on the draft before it is presented to the Working Group, but notes that final recommendation and approval is up to the community. If additional questions with the draft are outstanding, he encouraged the group to identify those for discussion.

Mr. Kraehnke noted that he had several questions pertaining to the building type standards and hoped that they could be addressed at the next meeting. Mr. Griepentrog noted that he would make sure the next agenda included additional conversation on Module 1 before introducing Module 2. He reminded the group to submit comments on any aspect of Module 1, both related to Article V Uses and 525-21 Commercial & Mixed-Use Districts, by the end of the week, so that he could forward them along to the consultant to prepare for the next meeting.

4. Future discussion items

No future discussion items were presented.

5. Public comment

No public comment was provided.

6. Adjournment

The meeting adjourned at 8:15 pm.

Respectfully submitted,



Bart Griepentrog, AICP
Planning & Development Director